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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/737,217

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Carl Young

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EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT

PAPER NUMBER

3629

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/737,217	<b>Applicant(s)</b> YOUNG ET AL.	
	<b>Examiner</b> JAMISUE A. PLUCINSKI	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,8-10,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8-10,15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/08 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 2, 4, 5, 8-10, 15 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has amended the independent claims to recite "wherein the security risk associated with the one or more of the first or second elements is also specifically associated with the corresponding hierarchical level of the one or more of the first or second elements". This security risk that is associated with the elements are received into the computer storage on a real time basis from a government agency or a news feed. In the specification, Page 6, the applicant recites "Generalized security risk data can be received from a security risk data

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source, which can include, for example, a government agency, a private investigation firm, public news, newsfeeds, internal security efforts, law enforcement agency or other source". The specification states that information from these feeds are generalized information, therefore not lending support to the amended claim of the information received being specific information about a hierarchical level.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, 5, 8-10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beverina et al. (US 2001/0027388) in view of Zimmers et al. (US 2005/0013417).

6. With respect to Claims 1, 15, 16: Beverina discloses the use of a computer system with a computer implemented method for managing security risks (see abstract) which uses a computer executable code (paragraph 0011) to perform the following steps:

a. Setting a hierarchical relationship between two or more elements where the first element of a first hierarchical level which is a facility and the second element of a second hierarchical level is a resource located within the facility (See Figures 7, 8 and 15, with corresponding detailed description, and paragraphs 0015, 0078, 0079, 0110 and 0129),

- b. Receiving an indication of a security risk of one or more of the elements (See Figures 8 and 15, paragraph 0011),
  - c. Receiving selection of a first element and a second element (See Figure 15, Beverina teaches the Risk assessment to Ft. Belvoir, and to a building at Ft. Belvoir, which has a hierarchical relationship); and
  - d. Relating the received indication of a security risk to the first and selected elements (Paragraphs 0078, 0081 and 0117)
  - e. Transmitting a description of the security risk as it relates to the element selected and wherein the relationship between the received indication of the security risk and the first selected element is based on hierarchical relationship and indication of security risk (See Figures 15 and 16, paragraphs 0012 and 0081);
  - f. Allowing a user to traverse between the hierarchical elements (Figure 23, discloses user allowing to determine Building Damage, second element, as well as geographic effects, which is considered to be more a facility or first element.)
7. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals

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can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)

8. With respect to the limitation of “wherein the security risk associated with the one or more of the first or second elements is also specifically associated with the corresponding hierarchical level of the one or more of the first or second elements”, Zimmers discloses this information is general information and does not disclose it is specific to the first or second hierarchical level. However, the specific type of information the security risk is associated with is deemed to be nonfunctional descriptive material and is not functionally involved in the steps recited. The steps of receiving an indication, relating the indication based on the element selected and transmitting the description of the security risk is performed the same regardless of whether the information received is associated with a hierarchical level, due to the fact that the information is related based on the element, not on the hierarchical level. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

9. With respect to Claim 2: See Beverina Figure 16 and paragraph 0106.

10. With respect to Claim 4: See Beverina Figures 15, 16, 23 and 24.

11. With respect to Claim 5: the limitation of the security risk comprising misappropriation of information is deemed to be nonfunctional descriptive material and is not functionally involved in the steps recited. The steps of transmitting security risks would be performed the same regardless of what type of threat the security risk is based on. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see

*In re Gulack*, 703 F .2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F .3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

12. With respect to Claim 8: See Beverina Figures 21 and 40, paragraph 0085.
13. With respect to Claim 9: See Beverina Figures 15 and 19.
14. With respect to Claim 10: See Beverina Paragraph 0198.

### ***Response to Arguments***

15. Applicant's arguments filed 5/27/08 have been fully considered but they are not persuasive.

16. With respect to Applicant's arguments in terms of the 112 1<sup>st</sup> paragraph rejection: The applicant has given multiple sections in the specification which show an output of the risks to the user can be related to a hierarchical level. However, as claimed, the security risks which are related to the hierarchical level, is the security risk which is in real time and is received from a government agency or a news feed. The claim states "receiving into the computer storage, on a real time basis, an indication of a security risk associated with one or more of the first or second elements, wherein the indication of a security risk comprises at least one of: a potential for physical, reputational, economic or legal harm and is received from government agency or a news feed and wherein the security risk associated with the one or more of the first or second elements is also associated with the corresponding hierarchical level of the one or more of the first or second elements". This states that the security risk in question is the one which is received on a real time basis, from the government agency or news feed. The specification states "Generalized security risk data has been received from a security risk data source, which can

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include for example, a government agency, a private investigation firm, public news, news feeds, internal security efforts, law enforcement agency or other source". Therefore the security risk that is received on a real time basis from the government agency or news feed is only generalized information, and does not disclose the security risk information which is received on a real time basis is associated with a hierarchical level. The system may then take this information and manipulate it to have it relate to the hierarchical levels, but the specification does not teach that this real time information is associated with a hierarchical level. Therefore the argument is not considered to be persuasive and the rejection stands as stated above.

17. With respect to Applicant's argument with the 103 rejection: The applicant is basing their arguments on Beverina not disclosing "setting" a hierarchical relationship between two or more element. As stated previously, the examiner considers Beverina to "set" a relationship, due to the fact that in Beverina, the user defines a building, and then defines a floor within a building. Therefore that is considered to be "setting" a relationship. It is a specific relationship, because it is a floor within a building. A user defines the area, and puts in features, this is an active step of setting. The applicant made a statement that admitted by the Office Action that Beverina does not disclose setting a relationship between two elements or even suggest setting a hierarchical relationship between the two. The meaning of this, was that even though Beverina does not specifically use those terms, does not specifically use the term "setting a relationship" or even "setting a relationship", the step is still being performed. The examiner was talking about the terms not being used, NOT that Beverina does not disclose the step. Beverina actively sets relationships between floors and buildings, therefore the examiner considers Beverina to disclose



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the claimed invention. Furthermore, Beverina even states the use of child nodes and parent nodes, in paragraph 0129, which the examiner considers to be hierarchical relationship.

18. With respect to Applicant's argument that Beverina is devoid of any disclosure of the first element being a facility and the second element being a floor: Figure 7 clearly shows this relationship between a building and a floor.

19. With respect to Applicant's argument that Beverina does not disclose "security risk associated with the one or more of the first or second elements is also specifically associated with the corresponding hierarchical level of the one or more of first and second element": The applicant has stated that the security risks are related to the elements and not the levels.

However Beverina discloses geographic risks as well as building risks, therefore that is considered to be hierarchical levels.

20. With respect to applicant's argument that the combination of Beverina and Zimmers fails to disclose the claimed invention: The applicant has argued that Zimmers is done for weather feed, therefore security information would not obtained only weather related information. It is the examiner's position that weather can be a security related threat. The applicant defines the security risk as being "a potential for physical, reputational, economic or legal harm" Weather causes physical harm, therefore would be a potential for physical and economic harm, because it effects the economy. Therefore arguments are not considered to be persuasive and rejection stands as stated above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/  
Primary Examiner, Art Unit 3629